

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of James L. Cook, et al. Art Unit 3738
Serial No. 10/645,372
Filed August 21, 2003
Confirmation No. 7442
For ELBOW ARTHROPLASTY SYSTEM
Examiner David H. Willse

April 24, 2006

RESPONSE SUPPLEMENTAL TO AMENDMENT A

TO THE COMMISSIONER FOR PATENTS,

SIR:

In response to the Notice of Omission mailed March 22, 2006, please consider the following remarks.

Although the undersigned firmly believes that Amendment A is fully responsive, support for the amendments and the new claims is given herein to expedite prosecution.¹

Support for Claim 4

Applicants' amendment to claim 4 in Amendment A replaced the term "anatomical" with the term "physiological" to describe the center of rotation of the natural elbow. The term "physiological" in describing the center of rotation of the natural elbow has a similar, albeit more precise, meaning as the term "anatomical" in describing the center of rotation of the

¹ The undersigned has exhaustively reviewed 37 CFR 1.111 and MPEP §§714.02 and 2163.06 and has not found any rule or suggestion that requires the applicant to specifically point out support in the specification for amendments to the claims and newly added claims. Instead, 37 CFR 1.111 states that when amending claims, the applicant must "clearly point out the **patentable novelty** which he or she thinks the claims present in view of the state of the art disclosed by the references". Moreover, MPEP §714.02 states that the applicant should "specifically point out the support for any amendments made to the **disclosure**." The MPEP does not state that support must be given for amendments to the claims.

natural elbow. One skilled in the art would understand that when describing the center of rotation of the elbow, you are describing a mechanical characteristic and an inherently physiological characteristic.

Support for the addition of the terms "anatomical" and "physiological" in describing the alignment of the humerus and ulna using the guides can be found, for example, in paragraph [0020], first sentence.

Support for New Claims 15-20

In regard to claim 15, support can be found in paragraph [0019].

In regard to claims 16 and 17, support can be found in Figs. 13 and 14 and in paragraphs [0026] to [0027].

In regard to claim 18, support can be found in Fig. 13 and in paragraph [0026].

In regard to claim 19, support can be found in Fig. 14 and in paragraph [0027].

In regard to claim 20, support can be found in paragraphs [0022] to [0024].

Conclusion

In view of the foregoing, favorable consideration and allowance of claims 1-20 is respectfully requested.

Applicants believe that there are no fees due in connection with this Supplemental Reply. If, however, the Commissioner determines that an additional fee is due, the undersigned hereby authorizes the Commissioner to charge Deposit Account No. 19-1345.

Respectfully submitted,



Kurt F. James, Reg. No. 33,716
SENNIGER POWERS
One Metropolitan Square
16th Floor
St. Louis, Missouri 63102

KFJ:JHC/dss